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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,077	09/26/2006	Michael J. Delwiche	023070-139620US	8461
20350 7590 05/19/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
			EXAMINER TUNG, JOYCE	
			ART UNIT 1637	PAPER NUMBER
			MAIL DATE 05/19/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

The response filed 4/24/09 to the office action has been entered. Claims 1-9, 11-12, 14, and 16-23 are pending.

1. The response discussed the teachings of Alatossava et al. at Col. 4, lines 16-17, line 25, line 49, lines 43-56; Col. 6, lines 21-24, lines 60-63; Col. 6, lines 58 to Col. 7, line 7, Col. 8, lines 13-15 and concluded that the method of Alatossava requires isolated DNA and amplification of the DNA and there is no reasonable expectation of successfully implementing fluorescence-based detection of DNA in a crude milk sample. However, as set forth in section 5 of the Office action mailed 12/24/08, Alatossava et al. disclose that a PCR reaction was carried out with a lysed somatic cell mixture of a milk sample instead of using purified DNA (see column 10, lines 40-43). The DNA in the lysate is amplified by PCR (see column 10, lines 37-40). The presence of the target sequences can be determined by hybridization of a probe (See column 4, lines 43-60). The PCR products are also measured quantitatively with a fluorometric system (See column 7, lines 3-7). Since primers and probes are both oligonucleotides and they have specificity to a target nucleic acid sequence, one of ordinary skill in the art would have been motivated to apply the method of Alatossava et al. to detect a DNA in a crude milk sample with a reasonable expectation of success because the method of Alatossava et al. is to shorten the time needed for a proper mastitis diagnosis (see column 3, lines 31-32). It would have been prima facie obvious to carry out the method of detecting a DNA in crude milk as claimed.

The response also argues that a "crude milk sample" is a milk sample in which the milk fat is not removed from the raw sample (e.g., by centrifugation) (see [0029] of 20070111205). However, Alatossava et al. do not indicate that the milk sample used in the method has had fat

removed. The lysed somatic cell mixture of a milk sample is interpreted as a raw milk sample. Therefore based upon the analysis above, the rejection is maintained.

Summary

2. No claims are allowed.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joyce Tung whose telephone number is (571) 272-0790. The examiner can normally be reached on Monday - Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth R Horlick/
Primary Examiner, Art Unit 1637

/Joyce Tung/
Examiner, Art Unit 1637
May 12, 2009